

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:23-CV-321-FL

NATIONAL ASSOCIATION OF E.E.  
SMITH ALUMNI AND FRIENDS, INC.  
(NAEESAF),

Plaintiff,

v.

NATIONAL ASSOCIATION OF E.E.  
SMITH AND FRIENDS, INC., and  
KEVIN ASHTON, CHAIR OF THE  
NATIONAL ASSOCIATION OF E.E.  
SMITH AND FRIENDS, INC.,

Defendants.

ORDER

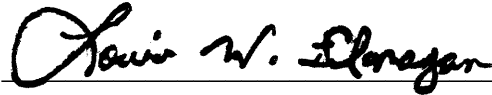
This matter is before the court following a January 4, 2024 hearing, at which the court addressed several motions: 1) defendants' motion to dismiss plaintiffs' first amended complaint (DE 27); 2) plaintiffs' motion for leave to file second amended complaint (DE 38); 3) defendants' motion to strike plaintiffs' reply in support of plaintiffs' motion for leave to amend (DE 44); and 4) plaintiffs' motion for an extension of time for leave to file a reply to defendants' opposition to plaintiffs' motion for leave to amend (DE 49). The court orally ruled on these motions from the bench at the hearing and, for the reasons stated in open court, now issues this order to memorialize its decisions.

1. Defendants' motion to dismiss (DE 27) is DENIED;
2. Defendants' motion to strike (DE 44) is DENIED;
3. Plaintiffs' motion for an extension of time (DE 49) is TERMINATED AS MOOT;

4. Plaintiffs' motion for leave to amend (DE 38) is hereby GRANTED conditionally upon plaintiffs' counsel's satisfaction of terms set forth in paragraph 8 of this order. Plaintiffs may cure any defects in the proposed second amended complaint's caption, but may not make any substantive changes to the body of the complaint. Plaintiffs shall file their second amended complaint by February 16, 2024;
5. This action is hereby STAYED until February 14, 2024;
6. The parties shall file joint status report contemporaneously with plaintiffs' second amended complaint suggesting three mutually acceptable dates on which a settlement conference before a United States Magistrate Judge of this district might take place;
7. The clerk is hereby DIRECTED to place the following docket entries under seal: 43-1, 43-2, 43-3, 43-4, 43-5, 43-6, and 43-7; and
8. Plaintiffs' counsel is hereby ORDERED to file a certification attesting to the following items by February 14, 2024:
  - a. That plaintiffs' counsel has attended a training course on the court's CM/ECF system on either January 17 or February 7, 2024;
  - b. That plaintiffs' counsel has fully and attentively read this court's local civil rules;
  - c. That plaintiffs have paid defendants' counsel's fees incurred travelling to, attending, and returning from the January 4, 2024 hearing. For purposes of this subparagraph, defendants' counsel's rate is reduced to \$225.00 per hour for travel time, but remains at her usual rate for her appearance at (and any preparation on that hearing day for) hearing before the court; and
  - d. Stating the status of any recording of the January 4, 2024 meeting of plaintiffs' membership body, and the preservation status of such recording if made.

Entry of this order should moot the parties' request for clarification recently filed (DE 56), and, therefore, the court directs the clerk to terminate that request on the court's docket.

SO ORDERED, this the 17th day of January, 2024.

A handwritten signature in black ink, reading "Louise W. Flanagan", written over a horizontal line.

LOUISE W. FLANAGAN  
United States District Judge